EXHIBIT A

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CM-110

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, state bar number, and address)*:
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ATTORNEY FOR *(Name)*: AFFINITY ENGINES, INC.

FOR COURT USE ONLY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara
STREET ADDRESS: 191 N. First Street
MAILING ADDRESS:
CITY AND ZIP CODE: San Jose, CA 95113
BRANCH NAME:

PLAINTIFF/PETITIONER: Affinity Engines, Inc.
DEFENDANT/RESPONDENT: Google, Inc., Orkut.com, LLC, Orkut Buyukkokten

CASE MANAGEMENT STATEMENT

(Check one): ☒ **UNLIMITED CASE** (Amount demanded exceeds $25,000) ☐ **LIMITED CASE** (Amount demanded is $25,000 or less)

CASE NUMBER: 104 CV 020368

A **CASE MANAGEMENT CONFERENCE** is scheduled as follows:
Date: April 26, 2005 Time: 11:00 a.m. Dept.: 2 Div.: Room:
Address of court *(if different from the address above)*:

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. **Party or parties** *(answer one)*:
   a. ☒ This statement is submitted by party *(name)*: Affinity Engines, Inc. (plaintiff)
   b. ☐ This statement is submitted **jointly** by parties *(names)*:

2. **Complaint and cross-complaint** *(to be answered by plaintiffs and cross-complainants*
   a. The complaint was filed on *(date)*: May 25, 2004
   b. ☐ The cross-complaint, if any, was filed on *(date)*:

3. **Service** *(to be answered by plaintiffs and cross-complainants only)*
   a. ☒ All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
   b. ☐ The following parties named in the complaint or cross-complaint
      (1) ☐ have not been served *(specify names and explain why not)*:
      (2) ☐ have been served but have not appeared and have not been dismissed *(specify names)*:
      (3) ☐ have had a default entered against them *(specify names)*:
   c. ☐ The following additional parties may be added *(specify names, nature of involvement in case, and the date by which they may be served)*: Doe Defendants 1-20 may be added as information becomes available through discovery.

4. **Description of case**
   a. Type of case in ☒ complaint ☐ cross-complaint *(describe, including causes of action)*:

   Misappropriation of Trade Secrets, Common Law Misappropriation, Breach of Fiduciary Duty, Breach of Written Contract, Breach of the Covenant of Good Faith and Fair Dealing, Intentional Interference with Contractual Relations, Intentional Interference with Prospective Economic Advantage, Conversion, Fraud and Deceit, Constructive Fraud, Common Law and Statutory Unfair Competition.

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PLAINTIFF/PETITIONER Affinity Engines, Inc.	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

On May 25, 2004, AEI filed a complaint against defendant Google, Inc., its subsidiary Orkut.com, LLC, and individual defendant Orkut Buyukkokten (collectively "defendants"). AEI's Complaint generally alleges that the defendants misappropriated AEI's intellectual property, including trade secret protected source code, and that defendant Buyukkokten, a co-founder and former director of AEI, breached his contractual and fiduciary duties to AEI and committed fraud. AEI seeks injunctive relief and monetary relief including compensatory and punitive damages, enhanced damages (under the Uniform Trade Secret Act), unjust enrichment, costs of suit including attorneys' fees, and pre- and post-judgment interest.

☐ *(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request ☒ a jury trial ☐ a nonjury trial *(if more than one party, provide the name of each party requesting a jury trial):*
Affinity Engines Inc. requests a jury trial.

6. **Trial date**

a. ☐ The trial has been set for *(date):*

b. ☒ No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain):* Google has done everything in its power to forestall trial. Specifically, Google has engaged in a series of delay tactics designed to harass and intimidate its smaller opponent. [Continued on Attachment A]

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability):*
Attorneys for Affinity Engines Inc. are not available on the week of August 22 due to hearings in other cases.

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one):*

a. ☐ days *(specify number):* 10 trial days

b. ☐ hours (short causes) *(specify):*

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial ☒ by the attorney or party listed in the caption ☐ by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

☐ Additional representation is described in Attachment 8.

9. **Preference**

☐ This case is entitled to preference *(specify code section):*

10. **Alternative Dispute Resolution (ADR)**

a. Counsel ☒ has ☐ has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.

b. ☐ All parties have agreed to a form of ADR. ADR will be completed by *(date):*

c. ☐ The case has gone to an ADR process *(indicate status):*

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10. d. The party or parties are willing to participate in *(check all that apply)*:
   - (1) ☒ Mediation
   - (2) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
   - (3) ☐ Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
   - (4) ☐ Binding judicial arbitration
   - (5) ☐ Binding private arbitration
   - (6) ☐ Neutral case evaluation
   - (7) ☒ Other *(specify)*: The parties participated in mediation in November 2004. No agreement to resolve the dispute was reached then. Only a prompt trial date will move the parties toward settlement.

e. ☐ This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory lim

f. ☐ Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

g. ☒ This case is exempt from judicial arbitration under rule 1600.5 of the California Rules of Court *(specify exemption)*: 2005 CRC sections 1601(b)(1) and 1601(b)(8).

11. Settlement conference

☒ The party or parties are willing to participate in an early settlement conference *(specify when)*: The parties have met previously on three occasions. AEI is willing to meet again before trial.

12. Insurance

a. ☐ Insurance carrier, if any, for party filing this statement *(name)*:

b. Reservation of rights: ☐ Yes ☐ No

c. ☐ Coverage issues will significantly affect resolution of this case *(explain)*:

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

☐ Bankruptcy ☐ Other *(specify)*:

Status:

14. Related cases, consolidation, and coordination

a. ☒ There are companion, underlying, or related cases.
   - (1) Name of case: Google, Inc. v. Affinity Engines, Inc.
   - (2) Name of court: United States District Court, Northern District of San Jose
   - (3) Case number: Case No. C 05-0598 JW (HRL)
   - (4) Status: Motion to dismiss and/or stay pending in light of the ownership issue being litigated in this case.

☐ Additional cases are described in Attachment 14a.

b. ☐ A motion to ☐ consolidate ☐ coordinate will be filed by *(name party)*:
Google's federal complaint alleges copyright infringement by AEI. [Continued on Attachment A]

15. Bifurcation

☐ The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *(specify moving party, type of motion, and reasons)*:

16. Other motions

☒ The party or parties expect to file the following motions before trial *(specify moving party, type of motion, and issues)*: Possible motions to compel discovery from Defendants, motions in limine and possible motions for summary adjudication by Plaintiff.

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17. **Discovery**
   a. ☐ The party or parties have completed all discovery.
   b. ☒ The following discovery will be completed by the date specified *(describe all anticipated discovery)*:

Party	Description	Date
Affinity Engines Inc.	Depositions	June, 2005
Affinity Engines Inc.	Interrogatories	May, 2005
Affinity Engines Inc.	Requests for Admission	May, 2005
Affinity Engines Inc.	Expert Discovery	June/July, 2005

   c. ☒ The following discovery issues are anticipated *(specify)*: A discovery referee will likely be necessary due to defendants scorched earth litigation tactics, described briefly in response to 6b. AEI believes that defendants will do anything in their power to prevent the case from moving forward. [Continued on Attachment A]

18. **Economic Litigation**
   a. ☐ This is a limited civil case (i.e., the amount demanded is $25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
   b. ☐ This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed *(if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case)*:

19. **Other issues**
   ☒ The party or parties request that the following additional matters be considered or determined at the case management conference *(specify)*: AEI requests that the Court facilitate the process of appointing a discovery referee if the parties have not stipulated to one. In addition, AEI requests that the Court require Google to immediately provide dates from May until June 17, 2005 when AEI's requested fact witnesses will be available to depose.

20. **Meet and confer**
   a. ☒ The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court *(if not, explain)*: The parties have not met and conferred regarding a suggested discovery referee despite AEI's attempts on several occasions to do so. In addition, Google has refused to meet and confer regarding the availability of its witnesses for depositions.
   b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following *(specify)*:

21. **Case management orders**
   Previous case management orders in this case are *(check one)*: ☒ none ☐ attached as Attachment 21.

22. Total number of pages attached *(if any)*: 1

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: April 19, 2005

G. Hopkins Guy, III
(TYPE OR PRINT NAME)

[signature]
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

☐ Additional signatures are attached

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Affinity Engines v. Google Inc., et al.
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Attachment A to Case Management Statement

6b. At first, Google refused to produce the source code at issue in the case. Google only produced the source code after AEI obtained a court order compelling production. In response to the same Court order, Google dumped 120,000 pages of documents on AEI in no discernible order, refusing to produce documents in electronic searchable form (even though they were produced to Google's counsel in electronic form). More recently, Google has refused to offer any dates of availability for its witnesses to be deposed.

Despite Google's attempts to delay, most of the document discovery in the case has been completed. Aside from Corcle.com – the Orkut.com source code prototype defendants claim has been destroyed – both parties have access to code. Google failed to produce the early prototype Corcle. In addition, Google has produced no early versions of Orkut.com. Google has only produced the code available two days after launching the website. No subsequent code has been produced. AEI has produced all relevant versions of its inCircle source code.

In addition, Google has deposed AEI's corporate designee on two occasions and is only seeking four other depositions (although it has not formally noticed any depositions yet). Over 140,000 pages of documents have been produced by the parties in the case and AEI has responded to nearly sixty special interrogatories, 42 from Google and 14 from co-defendant Orkut Buyukkokten. AEI anticipates that, so long as Google promptly produces the 5 deposition witnesses AEI seeks, and Mr. Buyukkokten appears for deposition, the parties will be ready to begin trial in late July.

14b. Google seeks a declaratory judgment as to the validity of AEI's copyright in the inCircle code. Since Google cannot have a valid copyright infrement claim if it does not own the inCircle code, and since ownership of the inCircle source code and other source code is already being litigated in this case, the federal case should be stayed or dismissed pending resolution of this action. Accordingly, AEI filed a motion to dismiss and/or stay Google's Federal Complaint which will be heard by the federal court on May 11, 2005.

17c. Absent the appointment of a discovery referee and the setting of a trial date, defendants will not in good faith attempt to complete fact discovery, thereby precluding AEI from proceeding to trial.

G. HOPKINS GUY, III (State Bar No. 124811)
ERIC L. WESENBERG (State Bar No. 139696)
MARK R. WEINSTEIN (State Bar No. 193043)
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Attorneys for Plaintiff
AFFINITY ENGINES, INC.

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

AFFINITY ENGINES, INC., a Delaware corporation, Plaintiff, v. GOOGLE, INC., a Delaware corporation, ORKUT.COM, LLC, a Delaware limited liability company, ORKUT BUYUKKOKTEN, individually, and DOES 1-20, inclusive, Defendants.	CASE NO. 104 CV 020368 **PROOF OF SERVICE VIA FACSIMILE AND U.S. MAIL**

DECLARATION OF SERVICE

I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, 1000 Marsh Road, Menlo Park, CA 94025.

On April 19, 2005, I served the following document:

CASE MANAGEMENT STATEMENT

to the following addressee(s):

David H. Kramer, Esq. **Wilson Sonsini Goodrich & Rosati** 650 Page Mill Road Palo Alto, CA 94304-1050 Telephone: (650) 493-9300 Facsimile: (650) 565-5100	Attorneys for Defendants **Google, Inc.** and **Orkut.com LLC**
Lance Kavanaugh, Esq, **Wilson Sonsini Goodrich & Rosati** One Market Plaza, Suite 3300 Spear Street Tower San Francisco, CA 94105 Telephone: (415) 947-2000 Facsimile: (415) 947-2099	Attorneys for Defendants **Google, Inc.** and **Orkut.com LLC**
Steven R. Manchester, Esq. **Manchester, Williams & Seibert** 84 West Santa Clara Street, Suite 630 San Jose, CA 95113-1808 Telephone: (408) 287-6193 Facsimile: (408) 287-1554	Attorneys for Defendant **Orkut Buyukkoten**

by the method(s) indicated below:

☒ (BY MAIL) I placed the documents listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Menlo Park, California addressed as set forth below.

☒ (BY FACSIMILE) I transmitted by facsimile machine at the time stated on the attached transmission report(s) by sending the document(s).

☐ (BY HAND DELIVERY) by causing to be personally delivered the document(s) listed above.

Executed on April 19, 2005, at Menlo Park, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Diane Escamilla
(Print or type name)

Diane Escamilla
(Signature)